UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,700	06/23/2003	Yu-Chen Chuang	681939-52US	5739

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ART UNIT	PAPER NUMBER
2191	

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 June 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 June 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the application filed on June 23, 2003.

2.   Claims 1-23 are pending.

Oath/Declaration

3.   The Office acknowledges receipt of a properly signed oath/declaration filed

June 23, 2003.

Drawings

4.   The drawings were received on June 23, 2003. These drawings are not

acceptable by the examiner.

5.   The drawings Figures 1 and 2 are objected to under 37 CFR 1.83(a) because

they fail to show the details such as labels as described in the specification. Any

structural detail that is essential for a proper understanding of the disclosed invention

should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in

compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid

abandonment of the application. Any amended replacement drawing sheet should

include all of the figures appearing on the immediate prior version of the sheet, even if

only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as "amended." If a drawing figure is to be canceled, the

appropriate figure must be removed from the replacement sheet, and where necessary,

the remaining figures must be renumbered and appropriate changes made to the brief

description of the several views of the drawings for consistency. Additional replacement

sheets may be necessary to show the renumbering of the remaining figures. Each

drawing sheet submitted after the filing date of an application must be labeled in the top

margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the

drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102

that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(e) the invention was described in (1) an application for patent, published under section 122(b), by another
filed in the United States before the invention by the applicant for patent or (2) a patent granted on an
application for patent by another filed in the United States before the invention by the applicant for patent,
except that an international application filed under the treaty defined in section 351(a) shall have the effects
for purposes of this subsection of an application filed in the United States only if the international application
designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by US

Patent No. 6,996,817 to Birum et al. (hereinafter, Birum).

Per claim 1:

Birum discloses:

- A method of software upgrade control for a system server and a sub-network

    including a plurality of user terminals, the method comprising the steps of:

- (a) providing said system server with updated software versions (col. 1, lines 40-

    45 "...changing version of an application may be updated...");

- (b) selecting one of said user terminals (See Fig. 2-3 and related discussion);

- (c) requesting from said system server a list of said updated software versions

  that are absent in said selected user terminal (col. 1, lines 40-45 "...A list of

  resource in a current version of an application is created and compared to the list

  of resources in a new version...");

- (d) determining whether those of said user terminals unselected in step (b)

  include any of said absent updated software versions (col. 1, lines 54-61 "...a

  determination is made as to when to being changing a current version to a new

  version on a client...");

- (e) receiving those of said absent updated software versions determined in step

  (d) to have been included in said unselected user terminals (col. 1, lines 54-61

  "...when the determination is made, resources are identified that belong to the

  current version and the new version...");

- (f) receiving those of said absent updated software versions determined in step

  (d) to have not been included in said unselected user terminals (col. 1, lines 54-

  61 "...based on the resources, a determination is made as to the resources that

  are needed on the client for the new version... then configured on the client");

  and

- (g) upgrading said selected user terminal with said received absent updated

  software versions (col. 1, lines 40-45 "...changing version of an application may

  be updated...").

Per claim 2:

The rejection of claim 1 is incorporated and further, Birum discloses:

-   broadcasting an inquiry in said sub-network in determining whether said unselected

    user terminals include any of said absent updated software versions (col. 4, lines 44-

    45 "A content server sends the list of resources in the most recent version together

    with a purge list (Block 705)").

Per claim 3:

The rejection of claim 1 is incorporated and further, Birum discloses:

-   registering at said system server after requesting from said system server a list of

    said updated software versions that are absent in said selected user terminal (See

    Fig. 2-3 and related discussion).

Per claim 4:

The rejection of claim 1 is incorporated and further, Birum discloses:

-   providing an agent in said selected user terminal in requesting said list of said

    absent updated software versions (col. 1, lines 40-45 "...A list of resource in a

    current version of an application is created and compared to the list of resources in a

    new version...").

Per claim 5:

The rejection of claim 1 is incorporated and further, Birum discloses:

- receiving an inquiry broadcast by said unselected user terminals (col. 4, lines 44-45

    "A content server sends the list of resources in the most recent version together with

    a purge list (Block 705)"); and

- transmitting one of said updated software versions in response to said inquiry

    broadcast (col. 3, lines 27-34 "FIG. 5 illustrates a process for creating a purge list

    that is used when upgrading versions...").

Per claim 6:

The rejection of claim 1 is incorporated and further, Birum discloses:

- wherein said selected user terminal is upgraded within a predetermined time

    interval (col. 5, lines 33-35 "At a selected time, the software vendor may cause a

    switch to occur between versions").

Per claim 7:

The rejection of claim 1 is incorporated and further, Birum discloses:

- providing said selected user terminal with a first client-server structure and a

    second client-server structure (See Fig. 1 and related discussion); and providing

    a client in said first client-server structure for requesting said list of said absent

    updated software versions (See Fig. 1 and related discussion).

Per claim 8:

The rejection of claim 7 is incorporated and further, Birum discloses:

- providing said first client-server structure with a first server for receiving an
  inquiry broadcast by said unselected user terminals (col. 4, lines 44-45 "A
  content server sends the list of resources in the most recent version together with
  a purge list (Block 705)" and See Fig. 1 and related discussion); and

- providing said second client-server structure with a second server for transmitting
  one of said updated software versions to one of said unselected user terminals in
  response to said inquiry broadcast (col. 4, lines 44-45 "A content server sends
  the list of resources in the most recent version together with a purge list (Block
  705)" and See Fig. 1 and related discussion).

Per claim 9:

The rejection of claim 7 is incorporated and further, Birum discloses:

- providing said first client-server structure with a first client for requesting one of
  said absent updated software versions from said unselected user terminals (col.
  4, lines 44-45 "A content server sends the list of resources in the most recent
  version together with a purge list (Block 705)" and See Fig. 1 and related
  discussion); and

- providing said second client-server structure with a second client for requesting
  one of said absent updated software versions from said system server (col. 4,
  lines 44-45 "A content server sends the list of resources in the most recent
  version together with a purge list (Block 705)" and See Fig. 1 and related
  discussion).

Per claim 10:

Birum discloses:

- A software upgrade control system comprising:

- a system server; a plurality of updated software versions provided at said system server (col. 1, lines 40-45 "...changing version of an application may be updated...");

- a sub-network including a plurality of user terminals wherein one of said user terminals is selected (See Fig. 2-3 and related discussion);

- a first client-server structure and a second client-server structure provided at said selected user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion);

- a client provided in said first client-server structure for requesting from said system server a list of said updated software versions that are absent in said selected user terminal (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion);

- a first server provided in said first client-server structure for receiving an inquiry broadcast by those of said user terminals that are unselected (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion);

-   a second server provided in said second client-server structure for transmitting one of said updated software versions to one of said unselected user terminals in response to said inquiry broadcast (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion);

-   a first client provided in said second client-server structure for requesting one of said absent updated software versions from said unselected user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion); and

-   a second client provided in said second client-server structure for requesting one of said absent updated software versions from said system server (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion).

Per claim 11:

The rejection of claim 10 is incorporated and further, Birum discloses:

-   an agent provided in said selected user terminal in requesting said list of said absent updated software versions (col. 1, lines 40-45 "...A list of resource in a current version of an application is created and compared to the list of resources in a new version...").

Per claim 12:

The rejection of claim 10 is incorporated and further, Birum discloses:

- wherein said system server supports an interversion protocol (col. 8, lines 3-5

  "The transactions may take place over the Internet, WAN/LAN 100, or some

  other communications network" and See FIG. 2 and related discussion).

Per claim 13:

The rejection of claim 10 is incorporated and further, Birum discloses:

- wherein said system server supports a file transfer protocol (col. 8, lines 3-5 "The

  transactions may take place over the Internet, WAN/LAN 100, or some other

  communications network" and See FIG. 2 and related discussion).

Per claim 14:

The rejection of claim 10 is incorporated and further, Birum discloses:

- wherein said system server supports a file transfer assistant protocol (col. 8, lines

  3-5 "The transactions may take place over the Internet, WAN/LAN 100, or some

  other communications network" and See FIG. 2 and related discussion).

Per claim 15:

The rejection of claim 10 is incorporated and further, Birum discloses:

- an agent in each of said user terminals for data communication between said first

  client-server structure and said second client-server structure (col. 8, lines 3-5

"The transactions may take place over the Internet, WAN/LAN 100, or some

other communications network" and See FIG. 2 and related discussion).

Per claim 16:

The rejection of claim 10 is incorporated and further, Birum discloses:

- a local area network over which said system server communicates with each of

    said user terminals (col. 8, lines 3-5 "The transactions may take place over the

    Internet, WAN/LAN 100, or some other communications network" and See FIG. 2

    and related discussion).

Per claim 17:

Birum discloses:

- A software upgrade control system, comprising:

- a system server that provides updated software versions (col. 1, lines 40-45

    "...changing version of an application may be updated...");

- a plurality of user terminals grouped to form a sub-network (See Fig. 2-3 and

    related discussion);

- a first client-server structure formed in each of said user terminals to request

    from said system server a list of updated software versions that are absent (col.

    1, lines 40-45 "...A list of resource in a current version of an application is

    created and compared to the list of resources in a new version..."), broadcast in

    said sub-network an inquiry as to whether any other user terminals have any

updated software versions absent therein, and receive an inquiry broadcast by said other user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)");

- a second client-server structure formed in each of said user terminals to transmit one of said updated software versions to one of said other user terminals (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion), receive an absent updated software version from one of said other user terminals having said absent updated software version (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion), and

- receive an absent updated software version from said system server if no other user terminals has said absent updated software version (col. 4, lines 44-45 "A content server sends the list of resources in the most recent version together with a purge list (Block 705)" and See Fig. 1 and related discussion); and

- an agent formed in each of said user terminals for data communication between said first and second client-server structures (col. 1, lines 40-45 "...A list of resource in a current version of an application is created and compared to the list of resources in a new version...").

Per claim 18:

The rejection of claim 17 is incorporated and further, Birum discloses:

- wherein said first client-server structure formed in each of said user terminals communicates with said system server in an interversion protocol (col. 8, lines 3-5 "The transactions may take place over the Internet, WAN/LAN 100, or some other communications network" and See FIG. 2 and related discussion).

Per claim 19:

The rejection of claim 17 is incorporated and further, Birum discloses:

- wherein said second client-server structure formed in each of said user terminals communicates with said system server in a file transfer protocol (col. 8, lines 3-5 "The transactions may take place over the Internet, WAN/LAN 100, or some other communications network" and See FIG. 2 and related discussion).

Per claim 20:

The rejection of claim 17 is incorporated and further, Birum discloses:

- wherein said first client-server structure communicates with said other user terminals in an interversion protocol (col. 8, lines 3-5 "The transactions may take place over the Internet, WAN/LAN 100, or some other communications network" and See FIG. 2 and related discussion).

Per claim 21:

The rejection of claim 17 is incorporated and further, Birum discloses:

- wherein said second client-server structure communicates with said other user

   terminals in a file transfer protocol (col. 8, lines 3-5 "The transactions may take

   place over the Internet, WAN/LAN 100, or some other communications network"

   and See FIG. 2 and related discussion).

Per claim 22:

The rejection of claim 17 is incorporated and further, Birum discloses:

- a first storage for storing said updated software versions (col. 2, lines 1-6 "When

   the resources are located on a server then the client downloads the resources

   from the server, stores the resource locally, modifies a data structure to indicate

   that the resource is stored locally, and the resources are provided to the client").

Per claim 23:

The rejection of claim 22 is incorporated and further, Birum discloses:

- a second storage for storing said updated software versions that are   (col. 2,

   lines 1-6 "When the resources are located on a server then the client downloads

   the resources from the server, stores the resource locally, modifies a data

   structure to indicate that the resource is stored locally, and the resources are

   provided to the client").

Conclusion

8.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to **Satish S. Rampuria** whose telephone number

is **(571) 272-3732**. The examiner can normally be reached on **8:30 am to 5:00 pm**

Monday to Friday except every other Friday and federal holidays. Any inquiry of a

general nature or relating to the status of this application should be directed to the

TC 2100 Group receptionist: 571-272-2100.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, **Wei Y. Zhen** can be reached on **(571) 272-3708**. The fax

phone number for the organization where this application or proceeding is assigned

is **571-273-8300**.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR

only. For more information about the PAIR system, see http://pair-direct.uspto.gov.

Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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